

June 29, 2001

Exemption No. 3585B
Regulatory Docket No. FAA-2001-9379

Mr. Ronald J. Welding
Director - Operations Standards
Air Transport Association
1301 Pennsylvania Avenue, NW.
Suite 1100
Washington, DC 20004

Dear Mr. Welding:

This is in response to your April 6, 2001, letter petitioning the Federal Aviation Administration (FAA) on behalf of the Air Transportation Association of America (ATA) for an extension of and amendment to Exemption No. 3585, as amended. That exemption from §§ 121.613, 121.619(a), and 121.625 of Title 14, Code of Federal Regulations (14 CFR) permits ATA-member airlines and other similarly situated part 121 operators to continue to dispatch airplanes under instrument flight rules when conditional language in a one-time increment of the weather forecast states that the weather at the destination airport, alternate airport, or both airports could be below the authorized weather minimums when other time increments of the weather forecast state that weather conditions will be at or above the authorized weather minimums. The amendment you request would revise condition No. 3 by deleting the word "voice" from that condition.

In your petition, you indicate that the conditions and reasons regarding public interest and safety, presented in the original petition upon which the exemption was granted, remain unchanged. However, you state that removing the requirement for voice communication from condition No. 3 would permit air carrier aircraft to communicate with a certificate holder's dispatch using SATCOM, ACARS, HF Datalink, and other advanced technology to transmit digital information regarding necessary weather reports for destination and alternate airports.

The FAA has determined that good cause exists for not publishing a summary of the petition in the Federal Register because the requested extension of and amendment to the exemption would not set a precedent, and any delay in acting on this petition would be detrimental to ATA members.

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The FAA has determined that the justification for the issuance of Exemption No. 3585, as amended, remains valid with respect to this exemption. Regarding your requested amendment to Condition No. 3, the FAA understands the technological advances that have occurred in air-to-ground communication technology. The FAA encourages such technological advances and has determined that the use of non-voice air-to-ground communication, in this case, would not adversely affect safety.

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, delegated to me by the Administrator, Exemption No. 3585, as amended, is hereby further amended by (1) extending its June 30, 2001, termination date to June 30, 2003, unless sooner superseded or rescinded, and (2) revising the specific need for voice communication stated in Condition No. 3. For clarity, all conditions and limitations are restated below.

1. Each certificate holder must list one additional alternate airport in the dispatch release whenever the METAR, TAF, or any combination thereof for the destination airport or first alternate airport indicate, by the use of conditional words in the remarks section of such METAR or in one or more time increments of the TAF, that the forecast weather conditions for the destination and the first alternate airport could be less than the authorized weather minimums for those airports. However, the METAR or TAF must indicate in another time increment that the weather conditions for the destination, first alternate, and second alternate airports are forecast to be not less than the applicable authorized weather minimum values as follows:
 - (a) With respect to the destination airport, the forecast weather conditions must not be less than one-half of the lowest weather minimum visibility value established for the instrument approach procedure expected to be used for an instrument approach at the destination;
 - (b) With respect to the first alternate airport, the forecast weather conditions must not be less than one-half of the alternate weather minimum ceiling and visibility values specified in the certificate holder's operations specifications for that airport; and
 - (c) With respect to the second alternate airport listed in the dispatch release pursuant to this exemption, the METAR, the appropriate time increment of the TAF, or any combination thereof for that airport must indicate in the main body and remarks section of the METAR or TAF that the forecast weather conditions will be at or above the alternate airport weather minimum ceiling and visibility values specified in the certificate holder's operations specifications for that airport.

2. No person may dispatch or take off an airplane, when operating under the terms of this exemption, unless the airplane has enough fuel:
 - (a) To fly to the airport to which it is dispatched;
 - (b) Thereafter, to fly to and land at the most distant alternate airport for the airport to which it is dispatched, taking into consideration the anticipated air traffic control routing; and
 - (c) Thereafter, to fly for 45 minutes at normal cruising fuel consumption.
3. Each certificate holder's pilot in command, while en route, must ensure by way of air-to-ground communication with the certificate holder's dispatch center and other appropriate facilities, that the pilot is receiving the most current METAR and TAF for the destination airport and the alternate airports. This current weather information must be used when making a decision to proceed to an alternate airport for landing.
4. Before commencing operations in accordance with this exemption, each certificate holder must obtain the approval of the appropriate FAA certificate-holding district office. Each certificate holder must ensure that the conditions and limitations listed herein are included in its approved manual(s) for the use and guidance of its flight and ground operations personnel.
5. Each BECMG change indicator in the TAF that is "deteriorating" must be considered valid at the first minute of the becoming period. Each BECMG change indicator in the TAF that is "improving" will not be valid until the last minute of the becoming period of the TAF.

This letter shall be attached to, and is a part of, Exemption No. 3585.

Please note the FAA has assigned a new docket number to this project (Docket No. FAA-2001-9379; previously Docket No. 22451).

Sincerely,

/s/ Nicholas A. Sabatini
Director, Flight Standards Service

AFS-01-363-E (Docket No. FAA-2001-9379) Exemption No. 3585B, 06/29/01

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Certificate holding region: AEA-200, Flight Standards service, Eastern Region.